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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 071308.0443

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on 10-19-06

Signature: A. Juarez

Typed or printed name: Alfonso Juarez

Application Number	Filed
10/603,209	06/25/2003

First Named Inventor: Ulrich Emmerling et al.

Art Unit	Examiner
2168	Mahesh H. Dwivedi

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☑ attorney or agent of record. Registration number 59,143
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

A. Grubert
Signature

Andreas H. Grubert
Typed or printed name

512.322.2545
Telephone number

10-19-06
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents,P.O . Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Ulrich Emmerling et al.
Serial No.:	10/603,209
Date Filed:	June 25, 2003
Group Art Unit:	2168
Examiner:	Mahesh H. Dwivedi
Title:	**METHOD FOR AUTHENTICATING A FIRST OBJECT TO AT LEAST ONE FURTHER OBJECT, ESPECIALLY THE VEHICLE TO AT LEAST ONE KEY**

MAIL STOP – AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

The Examiner finally rejected claims 1-2, and 11 under 35 USC 102(a) as being anticipated by US 4,509,093 ("Stellberger"). Furthermore, the Examiner finally rejected claims 3-10, and 12-17 as being unpatentable over Stellberger in view of U.S. Patent 6,381,699 ("Kocher"). Applicants respectfully disagrees. Independent claims 1 and 11 include limitations neither shown nor suggested by Christopher.

Independent claim 1 includes the method steps of:

a) transmitting an item of information unidirectionally between the first object and the at least one further object,

b) calculating a computation result in the relevant receiving object from parts of the transmitted information,

c) comparing the calculated computation result with a computation result transferred with the information in the relevant receiving object, and

d) authenticating the first object to the at least one further object only if there is a match between the calculated computation result and transferred computation result, and declaring the computation result as invalid for further transmissions.

Thus, an item of information is unidirectionally (in one direction) transmitted from object A to object B. Object B then calculates a result from parts of the information and compares this result with a computation result included in the item of information. Authentication only takes place if the results are identical.

A graphical representation of an example of this method would, thus, look like:

	Object A		Object B
step a)	xy	----------→	xy
step b)			calculate result(x)
step c)			compare result(x) = = y?
step d)			authenticate object A if true

Stellberger does not disclose or suggest such a method. The Examiner stated that step a) is disclosed in column 6, lines 60-67 to column 7, lines 1-8 (hereinafter "citation I"); step b) in column 7, lines 9-23 (hereinafter "citation II"); step c) in column 4, lines 22-27 (hereinafter "citation III") and column 9, lines 32-36 (hereinafter "citation IV"); and step d) in column 5, lines 29-31 (hereinafter "citation V"). Applicants respectfully disagree.

Stellberger generally discloses two different methods of authentication. the first method is graphically represented in Fig. 2 and the second method in Fig. 3. These methods are each distinct in their functionality and, thus, the respective steps of these method cannot simply be mixed or interchanged without compromising the functionality of the methods. Fig. 2 represents a method in which upon exitation, a first item of information is sent from the lock unit 20 to the key unit 10. Key unit then calculates result Y and transmits this result to lock unit 20 which then performs a comparison. Thus, this method clearly differs from the claimed method because the computed result is transmitted before comparison. The second method shown in Fig. 3, differs from the first method in providing parallel computation and comparison, i.e. both units perform a computation and comparison with items of information transferred from the respective other unit. However, the principle established in the first method remains that a computed result is transferred to the respective other unit for comparison.

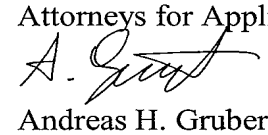
In the rejection, the Examiner impermissibly identifies different steps of the two Stellberger methods and mixes these steps to create a new method which is not disclosed or suggested in Stellberger. For example, citations I, II, and V relate to the first method shown in Fig. 2. However, citation III and IV clearly refer to the second method as shown in Fig. 3. The Examiner impermissible randomly singles out a step of the second method and tries to combine it with the first method. However, such a analysis/conclusion is neither supported by 35 USC §102 or §103. As discussed above, the second method performs an authentication according to the same principles as introduced in the first method. Thus, Stellberger does neither disclose nor suggest to perform a comparison of a result in the same unit in which that specific result has been calculated. The independent claim 1, however, clearly requires this limitation.

Independent claim 11 includes similar limitations as claim 1. thus, the same reasoning as stated above also applies to claim 11. Hence Stellberger does not anticipate the methods according to independent claims 1 and 11. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102 or §103, if necessary, and do not concede that the Examiner's proposed combinations are proper.

If there are any matters concerning this request that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants



Andreas H. Grubert
Reg. No. 59,143

Date: October 19, 2006

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